

# Planning Committee

Town Hall, Colchester  
19 July 2012 at 6.00pm

## **This committee deals with**

planning applications, planning enforcement, public rights of way and certain highway matters.

If you wish to come to the meeting please arrive in good time. Attendance between 5.30pm and 5.45pm will greatly assist in noting the names of persons intending to speak to enable the meeting to start promptly.

# Information for Members of the Public

## Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at [www.colchester.gov.uk](http://www.colchester.gov.uk) or from Democratic Services.

## Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to meetings, with the exception of Standards Committee meetings. If you wish to speak at a meeting or wish to find out more, please refer to Attending Meetings and "Have Your Say" at [www.colchester.gov.uk](http://www.colchester.gov.uk)

## Private Sessions

Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

## Mobile phones, pagers, cameras, audio recorders

Please ensure that all mobile phones and pagers are turned off or switched to silent before the meeting begins and note that photography or audio recording is not permitted.

## Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to Angel Court Council offices, High Street, Colchester or telephone (01206) 282222 or textphone 18001 followed by the full number that you wish to call and we will try to provide a reading service, translation or other formats you may need.

## Facilities

Toilets with lift access, if required, are located on each floor of the Town Hall. A vending machine selling hot and cold drinks is located on the ground floor.

## Evacuation Procedures

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## **Material Planning Considerations**

The following are among the most common issues which the Planning Committee can take into consideration in reaching a decision:-

- planning policy such as adopted Local Development Framework documents, for example the Core Strategy, Development Plan Documents (DPDs) and the Site Allocations DPD, Government guidance, case law, previous decisions of the Council
- design, appearance and layout
- impact on visual or residential amenity including potential loss of daylight or sunlight or overshadowing, loss of privacy, noise disturbance, smell or nuisance
- impact on trees, listed buildings or a conservation area
- highway safety and traffic
- health and safety
- crime and fear of crime
- economic impact – job creation, employment market and prosperity

The following are among the most common issues that are **not** relevant planning issues and the Planning Committee cannot take these issues into account in reaching a decision:-

- land ownership issues including private property rights, boundary or access disputes
- effects on property values
- restrictive covenants
- loss of a private view
- identity of the applicant, their personality or previous history, or a developer's motives
- competition
- the possibility of a "better" site or "better" use
- anything covered by other legislation

## **Human Rights Implications**

All applications are considered against a background of the Human Rights Act 1998 and in accordance with Article 22(1) of the Town and Country Planning (General Development Procedure) (England) (Amendment) Order 2003 there is a requirement to give reasons for the grant of planning permission. Reasons always have to be given where planning permission is refused. These reasons are always set out on the decision notice. Unless any report specifically indicates otherwise all decisions of this Committee will accord with the requirements of the above Act and Order.

## **Community Safety Implications**

All applications are considered against a background of the implications of the Crime and Disorder Act 1998 and in particular Section 17. Where necessary, consultations have taken place with the Crime Prevention Officer and any comments received are referred to in the reports under the heading Consultations.

## **Equality and Diversity Implications**

All applications are considered against a background of the Council's Equality Impact Assessment (EIA) Framework in order that we provide a flexible service that recognises people's diverse needs and provides for them in a reasonable and proportional way without discrimination. The legal context for this framework is for the most part set out in the Equality Act 2010.

**COLCHESTER BOROUGH COUNCIL  
PLANNING COMMITTEE  
19 July 2012 at 6:00pm**

**Members**

Chairman : Councillor Theresa Higgins.  
Deputy Chairman : Councillor Helen Chuah.  
Councillors Nick Barlow, Nigel Chapman, Peter Chillingworth, John Elliott, Stephen Ford, Sonia Lewis, Michael Lilley, Jackie Maclean, Jon Manning, Nigel Offen, Philip Oxford and Laura Sykes.

**Substitute Members** : All members of the Council who are not members of this Committee or the Local Plan Committee and who have undertaken the required planning skills workshop. The following members meet the criteria:-  
Councillors Lyn Barton, Mary Blandon, Mark Cable, Barrie Cook, Beverly Davies, Annie Feltham, Marcus Harrington, Jo Hayes, Pauline Hazell, Peter Higgins, Brian Jarvis, Cyril Liddy, Sue Lissimore, Colin Mudie, Will Quince, Terry Sutton, Anne Turrell, Dennis Willetts and Julie Young.

**Agenda - Part A**

(open to the public including the media)

Members of the public may wish to note that Agenda items 1 to 6 are normally brief and agenda items may be considered in a different order if appropriate.

An Amendment Sheet is circulated at the meeting and is available on the council's website by 4.30pm on the day of the meeting (see Planning and Building, Planning Committee, Planning Committee Latest News). Members of the public should check that there are no amendments which affect the applications in which they are interested. Could members of the public please note that any further information which they wish the Committee to consider must be received by 5pm on the day before the meeting in order for it to be included on the Amendment Sheet. With the exception of a petition, no written or photographic material can be presented to the Committee during the meeting.

**Pages**

**1. Welcome and Announcements**

(a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.

(b) At the Chairman's discretion, to announce information on:

- action in the event of an emergency;
- mobile phones switched off or to silent;

- location of toilets;
- introduction of members of the meeting.

## **2. Have Your Say!**

The Chairman to invite members of the public to indicate if they wish to speak or present a petition on any of items included on the agenda. You should indicate your wish to speak at this point if your name has not been noted by Council staff.

## **3. Substitutions**

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

## **4. Urgent Items**

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent and to give reasons for the urgency.

## **5. Declarations of Interest**

The Chairman to invite Councillors to declare individually any interests they may have in the items on the agenda. Councillors should consult Meetings General Procedure Rule 7 for full guidance on the registration and declaration of interests. However Councillors may wish to note the following:-

- Where a Councillor has a disclosable pecuniary interest, other pecuniary interest or a non-pecuniary interest in any business of the authority and he/she is present at a meeting of the authority at which the business is considered, the Councillor must disclose to that meeting the existence and nature of that interest, whether or not such interest is registered on his/her register of Interests or if he/she has made a pending notification.
- If a Councillor has a disclosable pecuniary interest in a matter being considered at a meeting, he/she must not participate in any discussion or vote on the matter at the meeting. The Councillor must withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.
- Where a Councillor has another pecuniary interest in a matter being considered at a meeting and where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the

Councillor's judgment of the public interest, the Councillor must disclose the existence and nature of the interest and withdraw from the room where the meeting is being held unless he/she has received a dispensation from the Monitoring Officer.

- Failure to comply with the arrangements regarding disclosable pecuniary interests without reasonable excuse is a criminal offence, with a penalty of up to £5,000 and disqualification from office for up to 5 years.

## **6. Minutes**

**1 - 15**

To confirm as a correct record the minutes of the meetings held on 23 May 2012 and 14 June 2012.

## **7. Planning Applications**

In considering the planning applications listed below, the Committee may chose to take an en bloc decision to agree the recommendations made in respect of all applications for which no member of the Committee or member of the public wishes to address the Committee.

1. 120584 Land adjacent to Rusty Tiles, Coggeshall Road, Dedham, CO7 6ET  
(Dedham and Langham)

**16 - 27**

Proposed one and a half storey detached dwelling.

2. 120846 Pearl Walk, Wivenhoe  
(Wivenhoe Quay)

**28 - 38**

Conversion of 4no. commercial units into residential use comprising 4no. two bedroomed ground floor apartments.

## **8. Report for Information**

**39 - 40**

See report by the Head of Environmental and Protective Services.

## **9. Exclusion of the Public**

In accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

**PLANNING COMMITTEE**  
**23 MAY 2012**

*Present :-* Councillors Nick Barlow, Nigel Chapman, Helen Chuah, John Elliott, Theresa Higgins, Sonia Lewis, Michael Lilley, Jon Manning, Nigel Offen, Philip Oxford and Laura Sykes

*Substitute Member :-* Councillor Julie Young for Councillor Stephen Ford

**1. Chairman**

*RESOLVED* that Councillor Theresa Higgins be appointed Chairman for the ensuing Municipal Year.

**2. Deputy Chairman**

*RESOLVED* that Councillor Helen Chuah be appointed Deputy Chairman for the ensuing Municipal Year.

**PLANNING COMMITTEE**  
**14 JUNE 2012**

*Present :-* Councillor Theresa Higgins\* (Chairman)  
Councillors Peter Chillingworth\*, Helen Chuah\*,  
John Elliott\*, Stephen Ford, Sonia Lewis\*,  
Michael Lilley\*, Jackie Maclean\*, Nigel Offen\*,  
Philip Oxford and Laura Sykes\*

*Substitute Members :-* Councillor Jo Hayes for Councillor Nick Barlow\*  
Councillor Mark Cable for Councillor Nigel Chapman\*  
Councillor Mary Blandon for Councillor Jon Manning\*

*Also in Attendance :-* Councillor Dave Harris

(\* Committee members who attended the formal site visit.)

**Councillor Sonia Lewis (in respect of her acquaintance with Roger Buston and as her solicitor) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**Councillor Mark Cable (in respect of his business association with Tesco as a potential customer) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**Councillor Nigel Offen (in respect of his place of residence being in Drury Road) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**Councillor Mary Blandon (in respect of members of her family and friends being resident in the area) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**Councillor Laura Sykes (in respect of Roger Buston being her solicitor) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**10. 120412 Butt Road, Colchester**

The Committee considered an application for a local centre comprising a supermarket, six retail units, affordable housing and car parking. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Alistair Day, Principal Planning Officer, attended to assist the Committee in its deliberations.



Cormac Davies presented a petition comprising approximately 535 signatures in the following terms:- "We the undersigned object to the current Tesco proposal for a store of 1,300m<sup>2</sup> on Butt Road. We ask the council to refuse planning permission and insist that the supermarket is reduced in size to 512m<sup>2</sup> (the original plan). To minimise increases in traffic (road safety, congestion, pollution, noise) and to protect existing local businesses".

Cormac Davies addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application as a local resident with children at the local primary school. He acknowledged the site had been designated for a food store but he was concerned about its size. He believed the designation specified a 1,000m<sup>2</sup> food store which the neighbourhood supported. The neighbourhood did not want a store two and a half times bigger; and together with the three retail outlets it would be five times bigger. The catchment area for the original proposal was 800m but was now nearly double that distance for this proposal. Customers could also order on line and collect from the store. Tesco compare this store to other locality supermarket stores.

Mike Jacklin addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application as a local resident with children attending the local primary school. His objection to this proposal was in respect of the safety of the pavements and increased use of local roads. The pavements were too narrow for pedestrians to pass safely without stepping into the road. He predicted an accident because of additional traffic entering the site and local minor roads being used as rat runs which, with the largest primary school in the borough being located 300m from the site, would be dangerous for children. He referred to a highway safety impact assessment which he believed did not include local roads and asked that it be widened to include the school catchment area.

Roger Buston addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He referred to the original permission of 1994 for a sustainable amenity store and three small shops, not a destination store of 1,300m<sup>2</sup> and six small shops. A local store was for shoppers on foot whereas a destination store was visited by car from 1,000m away. The Tesco handout showed 50 parking spaces but if the 170 parking spaces were shown it would be four times bigger. Neighbourhood roads would be improved to accommodate the development but those improvements related to the previous smaller development. Residents did not object to Tesco occupying this site, but they wanted a store the size of the original permission and Tesco should apply for that.

Matt Brown addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He was acting as an independent highways consultant for this scheme to deliver improvements to the local network. Local residents and the primary school had been engaged at an early stage. The local network had been assessed and the scope agreed with the Highway Authority. The scheme would enable local people to walk to the store and both the number of car parking spaces and their size conformed to the parking standards. There were minor changes in traffic flows but none were classified as severe. Many

people in the local community had asked for traffic measures such as speed restrictions of 20mph or speed bumps, but the Highway Authority opposed those measures because the traffic could chose to transfer onto other roads. There was an agreement for Tesco to provide weight restrictions to prevent any vehicles over 7.5 tonnes from using local roads. Both Colchester and Essex Highways were of the view that there were no safety concerns to indicate that guard rails along pavements would be appropriate.

Martin Robeson, Independent Town Planning Consultant for Tesco in East Anglia, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. Tesco had identified a gap in this area in their overall provision of superstores and express stores in Colchester, which they could fill for communities to the south and centre with an intermediate sized store. Other retailers could require a larger store on this site. Tesco want the small units for appearance and rental income and they would be provided before the store opened. The parking provision of 164 spaces would provide spare capacity at peak trading times in order to avoid any on-street parking.

Louise Gosling addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. She referred to the inadequate provision in the local area for people who wanted to do a full family weekly shop. Tesco supported cycle links and the store would create 90 new jobs which would go to local people through the job centre. Tesco would become part of the community and staff would be encouraged to identify local causes; Hamilton Primary School had already been identified. The store and the retail outlets would support each other with footfall which had occurred in other areas, for example in Crouch Street. Tesco would accept any conditions which might be applied. They had consulted extensively and received over 100 letters of support. She urged the Committee to approve the plans.

Councillor Hunt attended and, with the consent of the Chairman, addressed the Committee. He referred to the weight restrictions on the four local streets which he believed Tesco had agreed to fund. However the report suggested that the £30,000 funding was for an investigation rather than the highway works. Tesco had offered to pay for weight restrictions, traffic calming measures, any safety measures around the Drury Road/Butt Road junction and Essex County Council had declined the offer. He was of the opinion that the store was too big and the increased traffic generated would impact on highway safety. A traffic survey undertaken by Essex County Council had identified that for every 300 vehicles travelling from Butt Road to Maldon Road through the local residential roads, there were 1,000 vehicles travelling in the other direction. This was illogical and he requested tough measures. He also wanted the Highway Authority to attend a meeting to explain how they had reached their decision.

Councillor Barton attended and, with the consent of the Chairman, addressed the Committee. All residents accepted and wanted a supermarket to be built on the site because there were no such facilities on Abbeyfields. Those without a car wanted somewhere to do a weekly shop, but all residents wanted a supermarket appropriate to the size where they live and of the size already approved. Residents had anticipated that the result of a large supermarket would result in an unacceptable impact on nearby

roads being used as a short cut. She supported the proposal for a weight restriction. She acknowledged that mother and baby parking spaces would be provided.

Councillor Quince attended and, with the consent of the Chairman, addressed the Committee on behalf of residents in Prettygate Ward. He was also concerned about the road junctions and children who may step out into the road to avoid other footway users. He believed an accident was inevitable and despite what county and borough officers said, it was a serious concern. He requested that consideration be given to safety measures at the Butt Road corner.

Councillor Hazell attended and, with the consent of the Chairman, addressed the Committee. She raised the issue of allowing small businesses to continue making a living. The roads should be made safe for children to navigate rather than increasing congestion in narrow roads. She was concerned about the capacity and safety of the Butt Road/Layer Road junction for this proposal. She also referred to the original proposal having less impact on the area and residents who live nearby, and to the proposed store being out of proportion for the community's needs. The Sustainable Communities Act stated what needed to be done for sustainability in the area. She questioned the reason for the parking bays being below the standard size and urged the Committee to refuse the application.

Councillor Lissimore attended and, with the consent of the Chairman, addressed the Committee. She opposed the size of the store and referred to the detrimental impact on Shrub End Road which, together with Boudicca Road, had not been taken into consideration. She was principally concerned with the number of lorries required to service the store, both those owned by Tesco and those belonging to other suppliers, the route they used to access the store, and those arriving outside permitted hours having to park up to await admittance to the service yard. Also of concern were the number of schools and the risk of accidents. She referred to this application being against policies for the area which appear to have been ignored. She urged the Committee to follow planning policies and refuse the application.

The planning officer responded to representations in the following terms:- he explained that when judged against national and local policies the size of the store was appropriate for a local centre. The submitted application was for a full planning permission and as such must be judged on its own merits. Policy GAR1 refers to a 1,000m<sup>2</sup> food store but the size was not prescriptive. The default size for a neighbourhood store in the National Planning Policy Framework was 2,500m<sup>2</sup>. The extant permissions for the site provide for over 3,000m<sup>2</sup> of retail floor space and there was no condition on the extant permission to prevent the proposed food store and three retail units from being converted into a single unit. The application was considered to accord with both national and local policies and it would not be sustainable to refuse the application on the grounds of size.

In respect of sustainable modes of transport, the proposal provided a parking area smaller than required. The proposal promoted cycling and pedestrian improvements throughout the area and was considered to accord with local and national policy in this respect. In terms of parking, the parking bays for the retail development conformed to

the minimum standards. The issue had been raised with the applicant and officers advised that this size was a standard size used by Tesco throughout the country and had not caused operational problems. The aisle widths had been increased to counter the smaller parking bays. The fact that the size of the parking bays did not conform to the Council's preferred parking bay size was not considered to constitute a sustainable reason for refusal.

The Department of Transport guidelines recommend that any junction with a 10% increase would need an assessment. The assessment on the Goojerat Road / Butt Road junction showed an important increase in those areas but was not considered to have a detrimental impact on highway capacity. The other junctions would be subjected to a lower increase in traffic so the Highway Authority did not consider they could justify a requirement for the applicant to undertake a detailed assessment of those junctions. The National Planning Policy Framework states that councils should only request information that is appropriate to the scale of the development. Four side roads had been identified in terms of traffic movements where large lorries could cause a problem. A contribution had been secured to investigate and implement the introduction of weight restrictions on these roads. The actual implementation of weight restrictions would depend on the required public consultation exercise but was supported by the Highway Authority. Tesco had agreed that their deliveries would adhere to a service plan but other suppliers would not be subject to a delivery plan. The Highway Authority wanted other delivery vehicles to use 'A' roads.

In terms of any impact on small businesses, 'competition' and 'need' were not planning considerations. In terms of noise and air pollution, this council's Environmental Control team had not identified any significant harm on either of these issues; the area was not an Air Quality Management Area. A noise assessment had been submitted which demonstrated that the proposal would not have a detrimental impact on the area.

In terms of traffic calming, the introduction of such measures in one of the side roads would displace traffic to another of the side roads. Survey work had not highlighted capacity or safety issues in these roads and it would be unreasonable to ask the applicant to fund a comprehensive package of traffic calming measures in all those roads. The narrowness of the pavement in Drury Road had been acknowledged but current accident records did not indicate that this section of road was dangerous; there had been two car accidents and two accidents involving cyclists in the general vicinity of this junction. Guard rails at the edge of pavements were not advised because they would reduce the width of the path even further and children may go outside the guardrails. The National Planning Policy Framework stated that applications should only be refused where the highway implications were severe. This was not considered to be the case in respect of this development.

Despite reassurances that the Highway Authority had not identified any highway safety issues, members of the Committee remained concerned about safety issues in terms of the highway, including side roads, the footway and the junctions. Members referred to congestion for two months after the opening of the Tollgate superstore in the recent past. They believed that tracking of lorries did not work, drivers kept engines running while they were waiting to enter the unloading area, and trolleys could not be controlled. There was a request that the Highway Authority be required to attend a

Planning Committee meeting in order to explain the traffic assessments and how that Authority had come to their conclusions.

Members of the Committee had great sympathy with people in the area however, and most of the local population did want a store. If the traffic generated by a store of this size could be accommodated safely on the road system safely the debate about size would be irrelevant and the proposal would be acceptable. With the grant of planning approvals, the Garrison development was being implemented and occupied by residents and a food store in this location would be an asset; indeed the residents had been expecting one for some years. If this application was refused Tesco could appeal and an Inspector would be looking at the policies. Therefore there was a need to look more carefully at the highway safety aspect. If there was a robust safety impact assessment this might allay some of the fears of the local people. The Highway Authority were the borough council's experts in this matter and this authority needed the reassurance of a robust highway impact assessment.

The planning officer responded to committee members' comments in the following terms. The Highway Authority had been pushed to explain why they considered the current proposal to be acceptable and in particular that the capacity of the road and junctions were adequate. There was an existing approval on the site and the surrounding road and footway network had been improved as part of the Garrison development, which included this site. Some of the pavements were narrow, however it was not considered that the current proposal would generate a significant change in vehicle movements when compared with the approved schemes. Evidence would be required in respect of highway capacity or highway safety issues to warrant a refusal on highway grounds; such evidence had not been submitted. There was a need to demonstrate that the proposal would lead to severe harm; to go against that advice would not be a prudent decision. It was considered reasonable to require a service delivery plan, however the council could not reasonably control impacts further away from the site. Traffic assessments at the nearest junctions had demonstrated that whilst there would be an increase in traffic movements, this would not adversely affect the capacity at the junctions.

The design of the proposal reflected the area fully. Conditions could be imposed to prevent nuisance from trolleys and bins. Appropriate parking bays for disabled and mother and child were included in the scheme.

The Development Services Manager recognised members concerns and suggested that the matter be deferred so that officers could seek the information required by members from the Highway Authority regarding highway issues. He was confident that the highway safety issue could be analysed in detail and he offered to invite colleagues in the Highway Authority to attend the Planning Committee so members could properly investigate highway safety aspects. This authority did not have a budget to pay for independent assessments, and in any case Essex County Council was the relevant Highway Authority which this authority relied on for advice. Essex County Council should be given the opportunity to explain their case; it would not be proper to dismiss them.

The size of the store must be related to the current national and local planning policies;

the increase in size of the store was above that contained in the policy GAR1 but there was also a requirement to look at the impact in order to identify any harm. The previous consent had no restriction on size and a larger single food store could be built. He emphasised that a refusal based on the grounds that this store was larger than originally proposed was not sustainable.

*RESOLVED* (MAJORITY voted FOR) that consideration of the application be deferred for the following:-

- (a) Officers to explore issues with Essex County Council Highway Authority, in particular matters relating to highway safety (safety of school children on narrow footway, junction capacities, delivery routing).
- (b) The matter to come back to Committee at which meeting Essex County Council officers be invited to attend.
- (c) In the event that the Committee is not satisfied with the additional material from Essex County Council, the Committee may require a second opinion from independent highway consultants.

#### **11. 120641 Colchester Academy, Hawthorn Avenue, Colchester, CO4 3JL**

The Committee considered an application for the construction of a new split-level three and two storey academy building, the remodelling of a section of the existing Colchester Centre building, light refurbishment of the existing Sports Centre building, associated landscaping and demolition of an existing four-storey teaching building. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Lucy Mondon, Planning Officer, attended to assist the Committee in its deliberations.

Alison McWhirter, resident of Acacia Avenue and representing neighbours, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. She was opposed to the dominant building on Hawthorn Avenue and Acacia Avenue which was higher than the majority of homes in the area and would overshadow and tower over their homes. She referred to a condition to provide landscaping to soften the building, but questioned how such a dominant building could be softened. She had concerns regarding whether the 5¼ metre wide road would be able to accommodate the construction traffic, and she referred to an increase in traffic with daily deliveries, the school run, the out-of-hours sports centre and theatre use.

Riccardo Grillo, representing residents in Acacia Avenue, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in opposition to the application. He became concerned as the details became apparent. He considered it

important to build in the right place, referring to the 'garden' layout on the estate. Although the dwellings in Acacia Avenue currently faced a car park, it gave a feel of open space. The building will dominate the space. In the illustrations the gardens were wider and roads narrower than in reality and the high building would be closer to the dwellings than shown. Were this to be granted it would be 90metres high; this would be the easiest and cheapest building.

Alison Andreas, member of the Colchester Academy Trust and Director of Colchester Institute, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. In 2010 the Academy was abandoned when the rebuild project was put on hold and children would have to work in outdated buildings which were affected by flooding. There was a wish to make a statement that Greenstead and St Anne's children were worth the investment. They had looked at alternative sites but Sport England would not permit any building on the playing fields, and building at the rear of the site would entail the demolition of the sports centre, and building on the site of the existing building would create a level of disruption over two years which could not be supported. She acknowledged the concerns of local residents and they wished they could build further north but that would make construction and access difficult. Any of the alternatives were not viable; and anything which pushed the cost above the budget would prevent the project from going ahead.

Ben Marston, architects agents for the application, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He was working to a design with the limitation of the site and residential amenity. The design was determined by the need to build outside of the existing footprint. Along Acacia Avenue it would be two storeys which complied with the Essex guidelines. The building position had been pushed back as far as it could go. Changes had been made to address concerns raised regarding the bin store, and additional planting is proposed. The glazing pattern had been changed to safeguard neighbours' amenity. There were currently 127 car parking spaces and 60 cycle spaces on the site. It was proposed to provide 113 car parking spaces which was 33 above the Essex standards; there would also be a dedicated drop off area and an overflow parking area.

Councillor Dopson attended and, with the consent of the Chairman, addressed the Committee. Residents recognised the need for a building Fit for Purpose. They also recognised there was a disproportionality; 800 pupils and objections from sixteen properties. The objectors did not object in principle to the building. She referred to the report stating that there was nothing in any policies to support a rejection. She also referred to two meetings held for residents to enable the planning authority to understand their objections, the result of which had been a number of conditions and concessions:- external doors fitted to the assembly hall to prevent sound leaching; a gating mechanism; the bin store being moved; plant maintenance; revised landscaping; glazing patterns in upper floor windows; and security measures around the site. She hoped the Committee had seen the mound in front of residents' houses which blocked the car park, but would not block the height of the building. She was not entirely satisfied that this design was the only one possible. However, she wanted the ongoing dialogue to continue between Colchester Academy, the builders and residents.

Councillor Hogg attended and, with the consent of the Chairman, addressed the Committee. This application was about a new building to replace an old building. Three of his children went to the school; and children deserved a new building Fit for Purpose. This was an exciting proposal but he shared concerns expressed by residents regarding the dominance of the three storey building that would front onto Acacia Avenue.

The planning officer's response included the following points:- the three storey element would be 12.9m high and the two storey element would be just under 9.5m high. The adjacent flats were 10.9m high and properties in Acacia Avenue were 7m high. The building would be to the north of the properties in Acacia Avenue and would meet the 45degree rule. She stated that the heights of properties and distances in the listing was accurate. Large vehicles and articulated lorries would be able to negotiate Acacia Avenue with cars parked on the road. She referred to the number of visits by lorry traffic to the school and to the conditions. It had been demonstrated that if the building was moved further north it would make it difficult to get materials on to the site.

Members of the Committee recognised that some residents were of the view that they would be affected and there was some sympathy with the residents. The larger building was to the north and good planting would block out the large building. One of the positive aspects to the situation was the consultation which had taken place. The general principle was positive because the old buildings were ugly and not fit for purpose; a modern, well designed school building was much needed and would make a difference to the community. Some considered the new building would not be as bad as people envisage. The issue was more a question of views than loss of light. The building work would be disruptive during term time. Acacia trees were suggested as part of the planting scheme. Some members supported the demolition of the theatre and wanted energy and resource efficient measures to be incorporated. There was some disappointment at the level of cycle parking provision.

The planning officer responded by referring to a condition regarding landscaping and they could request that the landscaping officer consider Acacia trees be incorporated if appropriate. Whilst a view was not a material planning consideration, the issue here was whether or not the structure was oppressive or overbearing. Cost was also not a material planning consideration. However, moving the building further north might prevent emergency exits throughout the site. In terms of energy efficiency, she referred to building regulations which had to be complied with. The authority was required to assess the application as submitted and was not able to insist on solar panels. The current number of pupils was 800 and the proposed number was 1,200. There would be 60 spaces for cycles. The Highway Authority was satisfied that the majority of students walked to school with twenty-seven pupils and two staff cycling. Officers would check that satisfactory arrangements had been made in respect to the bin store and recycling facilities. The Development Services Manager confirmed that they had worked with Carillion elsewhere and wanted to include the principle of the Academy Trust, residents and builders having ongoing discussions including landscaping details.

*RESOLVED* (MAJORITY voted FOR) that the application be approved with conditions and informatives as set out in the report, on the Amendment Sheet together with



additional conditions for recycling facilities, landscaping and dialogues with residents be ongoing.

**Councillor Michael Lilley (in respect of his acquaintance with Mr Norman, the agent) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**12. 120657 Land rear of 103 Bromley Road, Colchester, CO4 3JG**

The Committee considered an application for a change of use of land from agriculture to a paddock for grazing horses and the retention of an associated building for use as stables and decked area. The application was a resubmission of 112201. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Simon Osborn, Planning Officer, attended to assist the Committee in its deliberations. He drew attention to the unusual access arrangement but explained that the Highway Authority did not want an intensification of the vehicular entrance to the north east of the site. The delivery of feed and removal of horse manure would be achieved from the parking area within the curtilage of the application dwelling. The permission would be personal to the applicant.

Steve Norman addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the application. He stated that there were no ulterior motives or any intention for future residential use. The ponies were currently stabled in Lawford and Tiptree. The applicant had not been aware that the land required planning permission, but in any case they had not moved the ponies onto the site. The access track behind The Beehive public house would not be used frequently. Visits by a vet or farrier would be via the property.

Councillor Hogg attended and, with the consent of the Chairman, addressed the Committee. He had called in the application on behalf of residents in Owls Retreat who were at the same height as the field and they would suffer from a loss of visual amenity. He referred to the stretch of road being dangerous and he was aware that the vehicular access would only be used on rare occasions. He supported the personal permission.

The planning officer explained that in planning law residents did not have right to a view. Any overbearing impact would be screened out. A condition relating to the rear access would assist in the control of the number of movements along the track. He also referred to the addition of a condition making the permission personal to the applicant.

Members were concerned at the steep access with uneven steps and no handrail which

in winter conditions could make the access almost impossible. There were also concerns that no riding school or other business use should be permitted. The highways issue was a concern but reassurance had been given by the applicant. In planning terms members recognised that the grazing of horses would be acceptable; the land was appropriate for the use and was close to the dwelling.

*RESOLVED* (MAJORITY voted FOR) that the application be approved with conditions and informatives as set out in the report and on the Amendment Sheet together with an additional condition for a personal permission to the applicant.

**Councillor Dave Harris (in respect of his role as Vice-Chairman of the governing body at the school) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**13. 120548 Land at 10 Monkwick Avenue, Colchester, CO2 8NL**

The Committee considered an application for a proposed new dwelling on land at the side of an existing dwelling including parking etc. The Committee had before it a report in which all information was set out.

The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

Mark Russell, Principal Planning Officer, attended to assist the Committee in its deliberations.

Councillor Mudie attended and, with the consent of the Chairman, addressed the Committee. He made representations on the basis that the parking space exiting onto School Road was a danger and a safety issue and the three parking spaces at the front of the properties were substandard. The school had not been informed about the application. He asked that the application be deferred for an improved scheme.

Councillor Harris attended and, with the consent of the Chairman, addressed the Committee. He referred to a petition for safety measures around School Road. Although he had no objections to the house, he was opposed to the application because it would not be possible for a car to exit safely into School Road regardless of any splay that might be provided.

Councillor Barton attended and, with the consent of the Chairman, addressed the Committee. She was also concerned at the parking space exiting onto School Road, particularly because of the high number of pedestrian and vehicular movements. She considered it impossible for a vehicle to reverse out of the space and could not believe it constituted an acceptable access. She was also disappointed that the school had not been consulted and wanted the application deferred until the matter was resolved.

The planning officer explained that the vehicular entrance in School Road had not been requested by the Highway Authority, and that parking bay standards were based on a

large vehicle, such as a people carrier. He stated that a car parking space at 5metres in depth would be acceptable "in special circumstances". He also confirmed that the neighbouring school had been consulted and that the matter should not be deferred.

Members of the Committee were not willing to support the application because of the congestion and parking where parking restrictions are in place in School Road at school arrival and leaving times. There was an opposing view that the proposed house was attractive and that the Highway Authority had not raised an objection to the sub-standard parking spaces.

*RESOLVED* (MAJORITY voted FOR) that the application be refused on the grounds that the parking spaces at the front of the dwellings were sub-standard and any vehicles exiting the rear parking space were likely to cause a danger to school children travelling to and from the adjacent school. The hazard was compounded by the proximity of cars parked on the opposite side of the street.

#### **14. 100534 Land rear (NE) of 148 St Andrews Avenue, Colchester**

The Committee considered an application for the erection of a detached bungalow with associated parking facilities. The Committee had before it a report in which all information was set out.

*RESOLVED* (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report.

#### **15. 120484 Land at Meadow Green Farm, Mount Bures Road, Wakes Colne**

This application was withdrawn from consideration at this meeting by the Head of Environmental and Protective Services immediately before the commencement of the meeting to allow reference to be made to a late submission sent by the agent which had not been reported on the Amendment Sheet. The application to come back to the Committee for consideration.

**Councillor Sonia Lewis (in respect of a meeting she attended at Lexden Wood Golf Club at which she discussed local issues) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**Councillor Mark Cable, Councillor Peter Chillingworth, Councillor John Elliott, Councillor Sonia Lewis and Councillor Jackie Maclean (in respect of the Conservative Group having held fundraising events at the premises) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**Councillor Helen Chuah (in respect of the weekly meetings of her Rotary Club being**

**held at the Lexden Wood Golf Club) declared a personal interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7(3)**

**16. 120708 Lexden Wood Golf Club, Bakers Lane, Colchester, CO3 4AU**

The Committee considered an application for the erection of a single storey coffee house, internal alterations to the existing refreshment bar, and the relocation of existing parking spaces. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

The Committee made a site visit in order to assess the impact of the proposal upon the locality and the suitability of the proposal for the site.

*RESOLVED* (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report.

**17. 120827 War Memorial, High Street, Colchester**

The Committee considered an application for the installation of temporary flag poles and flags during the Olympics. The Committee had before it a report in which all information was set out, see also Amendment Sheet.

*RESOLVED* (UNANIMOUSLY) that the application be approved with conditions and informatives as set out in the report.

**18. 120765 5 Bawtree Way, Colchester, CO3 4EP**

The Committee considered an application for a proposed garage and garden store. The Committee had before it a report in which all information was set out.

*RESOLVED* (UNANIMOUSLY) that the application be refused on the grounds of the height and scale of the proposed building, from which it is deemed to be a discordant element in the residential area that would unduly affect the amenity of neighbouring properties.

**19. Endorsement of proposed amendment to the 229a Garrison legal agreement in respect of affordable housing // Area L & N**

The Committee considered a report by the Head of Environmental and Protective Services seeking the Committee's endorsement of a Deed of Variation to the s299a Garrison legal agreement to provide a reduced provision of affordable housing on the part of the Garrison Urban Village Development known as Area L&N, comprising land to the west of Circular Road West and to the south of Goojerat Road. The Committee had before it a report in which all information was set out.

Alistair Day, Principal Planning Officer, attended to assist the Committee in its deliberations.

Lauren Dooley, planning consultant engaged to represent Taylor Wimpey, addressed the Committee pursuant to the provisions of Planning Committee Procedure Rule 8 in support of the proposed Deed of Variation. She explained that the existing s299 legal agreement did not provide a mechanism to take account of the decline in the housing market, the current climate of high costs, a difficult mortgage situation and sales climate. The request for a reduction of forty-seven affordable housing units was sought to provide the developer with an acceptable return and had been agreed with the Council's independent consultants. Taylor Wimpey were committed to the project and wished to continue to build but would be forced to cease operations on the Garrison if the development was deemed to be unviable. She requested the Committee to agree to this proposal.

The planning officer explained that the economic climate and the way the affordable housing was funded had both changed during the course of this application. The viability appraisal was based on a developer's profit of 12% rather than a more typical 20% and included a write down in the value of the land. If a 20% profit margin was applied, it was possible that no affordable housing would be provided on this site. The developer's alternative options were either to mothball the project or to submit a fresh application and go to appeal. It was recommended that the Committee endorse the proposal.

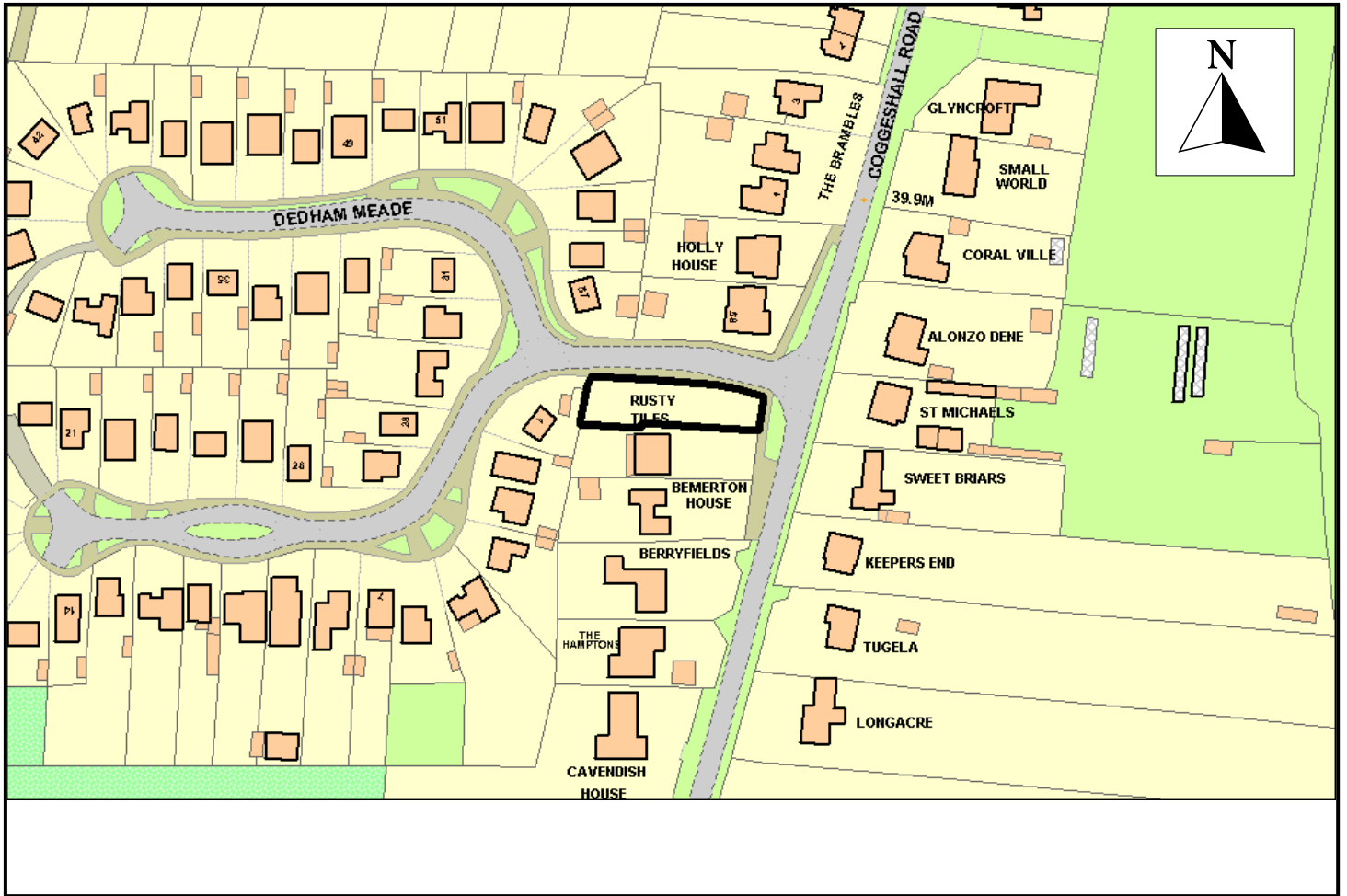
*RESOLVED* (MAJORITY voted FOR) that the Deed of Variation to the s299a Garrison Legal Agreement be endorsed to provide a reduced provision of affordable housing on the part of the Garrison Urban Village Development known as Area L&N.

## **20. Early Member Involvement Initiative // Amendments to the Member Engagement in Pre-Application Planning Discussions Protocol**

The Head of Environmental and Protective Services submitted a report detailing proposed amendments to the Member Engagement in Pre-Application Planning Discussions Protocol following a review of the working of the Protocol and feedback received from members. The Committee had before it a report in which all information was set out.

Vincent Pearce, Development Services Manager, attended to assist the Committee in its deliberations.

*RESOLVED* (UNANIMOUSLY) that the proposed amendments to the Member Engagement in Pre-Application Planning Discussions Protocol be agreed and would take effect upon completion of appropriate changes being made to the Planning Procedures Code of Practice.



**Application No:** 120584

**Location:** Land Adj. Rusty Tiles, Coggeshall Road, Dedham, CO7 6ET

**Scale (approx):** 1:1250

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# Committee Report

Agenda item

**7**

To the meeting of **Planning Committee**  
on: **19 July 2012**  
Report of: **Head of Environmental and Protective Services**  
Title: **Planning Applications**

Relevant planning policy documents and all representations at the time this report was printed are recorded as BACKGROUND PAPERS within each item. An index to the codes is provided at the end of the Schedule.

## 7.1 Case Officer: Simon Osborn

**MINOR**

**Site:** Land Adj. Rusty Tiles, Coggeshall Road, Dedham, CO7 6ET

**Application No:** 120584

**Date Received:** 26 March 2012

**Agent:** Mr Michael Bowler

**Applicant:** Mr Andrew Hewes

**Development:** Proposed one and a half storey detached dwelling.

**Ward:** Dedham & Langham

**Summary of Recommendation:** Conditional Approval

### 1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee by the planning officer because it is an on-balance recommendation with regard to overlooking and the interpretation of the Essex Design Guide.

## **2.0 Synopsis**

- 2.1 The application seeks planning permission for a chalet style property on a site which has previously had planning permission for a single storey bungalow. The report considers the principle of the proposal and its impact upon the area and neighbouring amenity, particularly with regard to the potential for overlooking from first floor windows. In the latter respect it is concluded that although an element of overlooking will result from the proposal, the general position and orientation of the windows and the dormer design, will not result in a significant and unreasonable level of overlooking. The application is recommended for approval.

## **3.0 Site Description and Context**

- 3.1 The application site is a broadly rectangular parcel of land on the corner of the Coggeshall Road with Dedham Meade, in the small settlement boundary of Dedham Heath. The site is enclosed by 1.8m high fencing along the Dedham Meade frontage and a high hedge on the Coggeshall Road frontage. Dedham Meade is a cul-de-sac residential street, which branches shortly beyond the application site, with each branch of the road serving approx 30 dwellings. Residential development along this side of the Coggeshall Road is predominantly 2-storey in nature and includes a new house on the opposite side of Dedham Meade, which was approved in 2009. Rusty Tiles is a bungalow with roof accommodation; and dwellings on the other side of the Coggeshall Road are predominantly single storey in form.

## **4.0 Description of the Proposal**

- 4.1 The proposal seeks planning permission for a chalet style property, which faces toward Dedham Meade, with parking for 3 cars on the side furthest from the junction with Coggeshall Road and private rear amenity areas to either side of the proposed dwelling. Three dormers front onto the Dedham Meade frontage.
- 4.2 The plans originally submitted were amended following Officer concerns with regard to potential overlooking to 58 Dedham Meade. The revised plans shifted the position of the dwelling further to the east and substituted obscure glazing for the dormer window nearest to 58 Dedham Meade. The Parish Council and nearest neighbours were renotified on the revised plans.

## **5.0 Land Use Allocation**

- 5.1 Within settlement boundary of Dedham Heath.

## **6.0 Relevant Planning History**

- 6.1 072229 – New bungalow and detached garage approved 24 October 2007, by Planning Committee
- 6.2 The new dwelling on the opposite side of Dedham Meade was one of two dwellings approved by planning application 091139 in 2009. This house is now occupied and known as 58 Dedham Meade.



## **7.0 Principal Policies**

7.1 The following national policies are relevant to this application:

The National Planning Policy Framework (NPPF)

7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:

SD1 - Sustainable Development Locations

UR2 - Built Design and Character

ENV2 - Rural Communities

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):

DP1 Design and Amenity

DP12 Dwelling Standards

DP13 Dwelling Alterations, Extensions and Replacement Dwellings

DP16 Private Amenity Space and Open Space Provision for New Residential Development

DP19 Parking Standards

7.4 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

Backland and Infill

Community Facilities

Vehicle Parking Standards

Sustainable Construction

Open Space, Sport and Recreation

Extending your House

The Essex Design Guide

External Materials in New Developments

Dedham Village Design Statement

## **8.0 Consultations**

8.1 ECC Highways – no objection subject to conditions:

Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 25 metres to the east and 2.4 metres by 25 metres to the west, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council.

Supplementary Guidance in February 2011.

Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.

Reason: To provide adequate inter-visibility between the users of the access and pedestrians in the adjoining public highway in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council

Supplementary Guidance in February 2011.

Prior to occupation of the development the vehicular parking facility, as shown on the submitted plan shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose.

Reason: To ensure that vehicles can enter and leave the highway in a forward gear in the interest of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

Reason: To avoid displacement of loose material onto the highway in the interests of highway safety in accordance with policy DM1 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

Each vehicular parking space shall have minimum dimensions of 2.9 metres x 5.5 metres.

Reason: To ensure adequate space for parking off the highway is provided in the interest of highway safety in accordance with Policy DM8 of the Development Management Policies as adopted as County Council Supplementary Guidance in February 2011.

Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Travel Information and Marketing Scheme for sustainable transport approved by Essex County Council.

Reason: In the interests of promoting sustainable development and transport in accordance with policy in F.32 in the Essex Road Passenger Transport Strategy 2006/11

INF01 - General - All works affecting the highway to be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made to the Essex County Council on 0845 603 7631

- 8.2 Design and Heritage Officer - The design is satisfactory for a site that has permission for development.

- 8.3 National Grid – No response. (A letter from National Grid in respect of the 2007 application stated risk from the proposal to their gas and electricity network was negligible)

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

## 9.0 Parish Council Response

- 9.1 The Parish Council has stated that:-

“The Parish Council Sub-Committee has considered this application and two points have been raised in objecting.

Firstly despite comments made by Essex Highways it is the Parish Council's wish that it is recorded that we consider this vehicle access to be dangerous and we would wish that serious consideration be given to a condition that the vehicle access be designed to allow a vehicle to only exit and enter the site in forward gear. The situation on site is further exacerbated by a double garage and drive being constructed opposite since the last application 072229.

Secondly the overall design whilst not being typical of others in Coggeshall Road and Dedham Meade we consider to large for the site.”

- 9.2 Dedham Parish Council has commented on the amended plans as follows:-

“The Parish Council Planning Sub-Committee has considered this application (dated 24<sup>th</sup> May 2012) and as the latest documents do not state that this application is an amendment we have treated it as a new application.

Unless there is building control documents to support the commencement of works on this site to construct the original bungalow we are of the opinion that the original application 072229 has lapsed.

We apologise for the delay but this application formed part of the first considerations of the new planning sub-committee and they needed time to view and formulate a considered opinion.

The Village Design Statement clearly indicates that it is the parishioners' wishes that no garden developments should take place and this is supported by local and government legislation.

The access and visibility give us grave concerns because of experiences learnt at the time two houses were built on the opposite side of the road in the past two years and the fact that at least six vehicle accesses and a junction on a bend are located within a 10 metre stretch of the access to Dedham Meade where there are 58 houses located.

The Case Officer has been contacted regarding our concerns over the Gas Governor Station adjacent to the proposed access, we await comments from National Grid.

There is still an outstanding problem regarding the flooding of this entrance to Dedham Meade outside the proposed development. Because this matter has not been addressed when the two new properties opposite were built the situation is now causing flooding of Dedham Meade on occasions of heavy rain because the construction work that has taken place in Dedham Meade and the land south of Rusty Tiles without consideration of the original drainage system being maintained and where to run off should go.

Given all the above reasons it was the unanimous decision of the Planning Sub-Committee to recommend refusal.

Should the Case Officer be minded to approve this application we will ask for it to be 'called-in.'

## **10.0 Representations**

10.1 Five letters have been received from Nos. 1, 30, 56, 57 and 58 Dedham Meade , which made the following points:

1. Another driveway (in addition to those opposite) close to junction with Coggeshall Road is dangerous, especially as the road often floods.
2. Prominence and proximity of dwelling to road boundary – should be single storey.
3. Road boundaries incorrectly shown with regard to 58 Dedham Meade.
4. Deeds state garden cannot be built on.

The full text of all of the representations received is available to view on the Council's website.

## **11.0 Parking Provision**

11.1 The proposal makes provision for 3 off-street parking spaces, which accords with your adopted policies and SPD.

## **12.0 Open Space Provisions**

12.1 The site is not large enough to generate a requirement for public open space on site. A contribution in accordance with your adopted guidance is made towards the provision of public open space as part of a unilateral undertaking.

## **13.0 Air Quality**

13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

## **14.0 Report**

### Principle of Development

14.1 The site for this proposal lies in the defined village envelope for Dedham Heath, as allocated in the adopted Colchester Borough Local Plan. As the site for this proposal is within the established village envelope for Dedham Heath, it is considered that the principle of residential development taking place on this site would be acceptable. Planning permission has previously been granted for a bungalow on this site and, whilst there may be some dispute from the Parish Council as to whether a lawful commencement was made, the fact that a dwelling has been permitted in the recent past (2007) is a material consideration.

- 14.2 The Parish Council refers to the Village Design Statement adopted November 2007. This states bungalows and cottages are preferred to executive dwellings in Dedham and new dwellings should remain within existing envelopes. Within the Dedham Heath envelope it states infill buildings should echo the size and height of adjacent buildings so that older buildings are not dominated. The development pattern along this side of Coggeshall Road is generally 2-storey, although the existing Rusty Tiles is a bungalow with rooms in the roof. Nonetheless the proposal for a 3-bedroom cottage style dwelling appears consistent with the Village Design Statement.

#### Design and Layout

- 14.3 The proposed footprint for the dwelling is similar in position to that permitted by the 2007 permission. As stated in paragraph 14.2 above the scale of the proposal appears consistent with development in the vicinity, with predominantly 2-storey dwellings on this side of the Coggeshall Road. The principal elevation fronts onto Dedham Meade, which forms a strong visual link with the new house on the opposite side of the road. The elevation facing the Coggeshall Road is also considered acceptable. As such the design and layout has an acceptable relationship with the character of the surrounding area.

#### Impacts on Neighbour Amenities

- 14.4 The proposed development would not appear overbearing on the outlook of neighbours. The Council policy sets out that a 45 degree angle of outlook from the mid-point of the nearest neighbouring windows should be preserved and it is considered that this proposal satisfies this requirement. Similarly, there are no concerns regarding loss of light. The combined plan and elevation tests are not breached and the proposal therefore satisfies the Councils standards for assessing this issue as set out in the Essex Design Guide and the Extending Your House SPD.
- 14.5 The most significant aspect of the proposal is its relationship to the rear garden of 58 Dedham Meade, in terms of potential overlooking. The amended proposal shows bedrooms 2 and 3 with dormer windows facing toward 58 Dedham Meade at right angles to the rear garden of the property, at a distance of approx 13m from the garden fence of that property. The Essex Design Guide states that where the rear faces of new houses are approximately parallel to the existing, the rear of new houses may not encroach any closer than 15m to an existing rear boundary. All houses should have a private sitting out area not overlooked by adjacent or opposite living rooms or sitting out areas. This area should extend at least 3m and be screened from adjacent properties by walls or fences above eye level from a potential vantage point. An acceptable degree of privacy would be a rear separation between back of at least 25m and an intervening above eye-level barrier, or the design of the opposite house so that windows face in other directions.
- 14.6 The relationship of the proposed dwelling to 58 Dedham Meade is a little different to that described in the Essex Design Guide because the proposed dwelling is on the opposite side of an intervening road, rather than backing onto the site. Nonetheless it does have three bedroom windows facing at 90 degrees to the rear garden of No. 58. The amended plans show the window nearest to the rear of 58 Dedham Meade with obscure glazing and fixed shut. (Note: This window serves a bedroom with another main window, so obscure glazing is acceptable). The other two bedroom

windows face directly toward the garage at the end of the rear garden rather than directly toward the 3m sitting-out zone at the back of the house. The windows are also dormer windows which project out from the main part of the bedroom; by their design this will tend to discourage all round views. The natural angle of viewing will not therefore be toward the sitting-out area of No. 58. It is of course impossible to completely prevent any form of overlooking within a residential area and whilst it would be possible to overlook the rear garden of No. 58 Dedham Meade from these 2 bedroom windows, given the general position of the windows and their dormer design it is considered that the level resulting from this proposal would not be so significant or unreasonable as to supportable on appeal if the application was refused.

#### Amenity Provisions

- 14.7 The proposed dwelling will have a private garden area on the east side of the dwelling of approx 200 square metres, which is in excess of the Council's minimum standards.

#### Highway Issues

- 14.8 A number of comments refer to the proximity of this access to accesses and garages opposite and nearby, to the proximity of a sharp bend in Dedham Meade and to the junction with Coggeshall Road. Notwithstanding these comments, ECC Highways who are the experts on highway safety issues has not objected to the proposal. It is also noted that a double garage with parking and without turning space was permitted opposite as part of 091139. The Parish Council has referred to flooding in the roads caused by nearby development; however the site is not within an Environment Agency floodzone and no objection has been received from ECC Highways on the grounds of road safety in this respect. The proposal provides off-street parking for 3 cars, which accords with the adopted standards for off-street parking.

#### Other Matters

- 14.9 The Parish Council has referred to the proximity of the site to a Gas Governor Station. National Grid was consulted on the application but no response was received. However, a response was received from this body in respect of the 2007 application, which stated they considered the original proposal to have negligible impact on their network. The footprint of the new dwelling is not significantly different from that previously approved. It is proposed that this matter is dealt with as an informative to the applicant/developer.

### **15.0 Conclusion**

- 15.1 The application seeks planning permission for a chalet style property on a site which has previously had planning permission for a single storey bungalow. The report considers the principle of the proposal to be acceptable in terms of its impact upon the area. Parking and amenity space provision accords with our standards and ECC Highways raise no objection to the access. With respect to neighbouring amenity, particularly with regard to the potential for overlooking from first floor windows, it is concluded that although an element of overlooking will result from the proposal, the general position and orientation of the windows and the dormer design, will not result

in a significant and unreasonable level of overlooking. The application is therefore recommended for approval.

## **16.0 Recommendation - APPROVE** subject to the following conditions

### **Conditions**

#### **1 - A1.5 Full Perms (time limit for commencement of Development)**

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In order to comply with Section 91 (1) and (2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

#### **2 - Non-Standard Condition**

The development hereby permitted shall be constructed in strict accordance with the approved drawings, unless otherwise agreed in writing by the Local Planning Authority. The approved drawing numbers include 5285/11/2a dated 12 May 2012, 5285/11/3 dated May 2012, and 5285/11/1a dated 23 March 2011.

Reason: For the avoidance of doubt as to the scope and effect of this permission

#### **3 - C3.3 Samples to be Submitted**

Samples of the materials to be used on the external finishes shall be submitted to and approved in writing by the Local Planning Authority before the development commences. The development shall only be carried out using the approved materials.

Reason: To harmonise with the character of existing development in the area.

#### **4 - Non-Standard Condition**

Prior to the commencement of development, evidence that the development is registered with an accreditation body under the Code for Sustainable Homes and a Design Stage or Interim Code Certificate demonstrating that the development will achieve Code Level 3 or higher for all dwellings shall have been submitted to and agreed, in writing, by the Local Planning Authority.

Reason: For the avoidance of doubt as to the effect of this permission.

#### **5 - Non-Standard Condition**

Prior to the first occupation of any dwelling hereby approved, a post-construction Final Code Certificate issued by an accreditation body confirming that dwelling has achieved a Code for Sustainable Homes rating of Code Level 3 or higher shall have been submitted to and agreed, in writing, by the Local Planning Authority.

Reason: To ensure that the completed development is sustainable and makes efficient use of energy, water and materials.

#### 6 - Non-Standard Condition

Prior to occupation of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 25 metres to the east and 2.4 metres by 25 metres to the west, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splays shall be provided before the access is first used by vehicular traffic and retained free of any obstruction at all times.

Reason: To provide adequate inter-visibility between vehicles using the access and those in the existing public highway in the interest of highway safety.

#### 7 -Non-Standard Condition

Prior to occupation of the development the vehicular parking facility, as shown on the submitted plan 5285/11/2a shall be constructed, surfaced and maintained free from obstruction within the site at all times for that sole purpose. No unbound material shall be used in the surface treatment of this area.

Reason: To ensure an appropriate provision is made for off-street parking in accordance with the Council's adopted standards.

#### 8 - Non-Standard Condition

Prior to occupation of the proposed development, the Developer shall be responsible for the provision and implementation of a Travel Information and Marketing Scheme for sustainable transport approved by Essex County Council.

Reason: In the interests of promoting sustainable development and transport.

#### 9 - C11.14 Tree / Shrub Planting

Before any works commence on site, details of tree and/or shrub planting and an implementation timetable shall be submitted to and approved in writing by the Local Planning Authority. This planting shall be maintained for at least five years following contractual practical completion of the approved development. In the event that trees and/or plants die, are removed, destroyed, or in the opinion of the Local Planning Authority fail to thrive or are otherwise defective during such a period, they shall be replaced during the first planting season thereafter to specifications agreed in writing with the Local Planning Authority.

Reason: To ensure an appropriate visual amenity in the local area.

#### 10 - Non-Standard Condition

The window to bedroom 2 on the north (front) elevation of the dwelling hereby permitted shall be glazed in obscure glass with an obscuration level equivalent to scale 4 or 5 of the Pilkington Texture Glass scale of obscuration and shall be fixed shut, and shall be retained as such at all times thereafter.

Reason: In the interests of residential amenity and to secure the privacy of adjoining occupiers.

#### 11 - Non-Standard Condition

No new window, including any dormer window, shall be inserted above ground floor level in the proposed building without the prior approval in writing of the Local Planning Authority.

Reason: In the interests of residential amenity and to secure the privacy of adjoining occupiers.



## 12 - Non-Standard Condition

Prior to the commencement of the development hereby permitted, details of the means of enclosure between the front of the dwelling and the Dedham Meade road shall be submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be completed prior to the dwelling first being occupied and shall be retained thereafter.

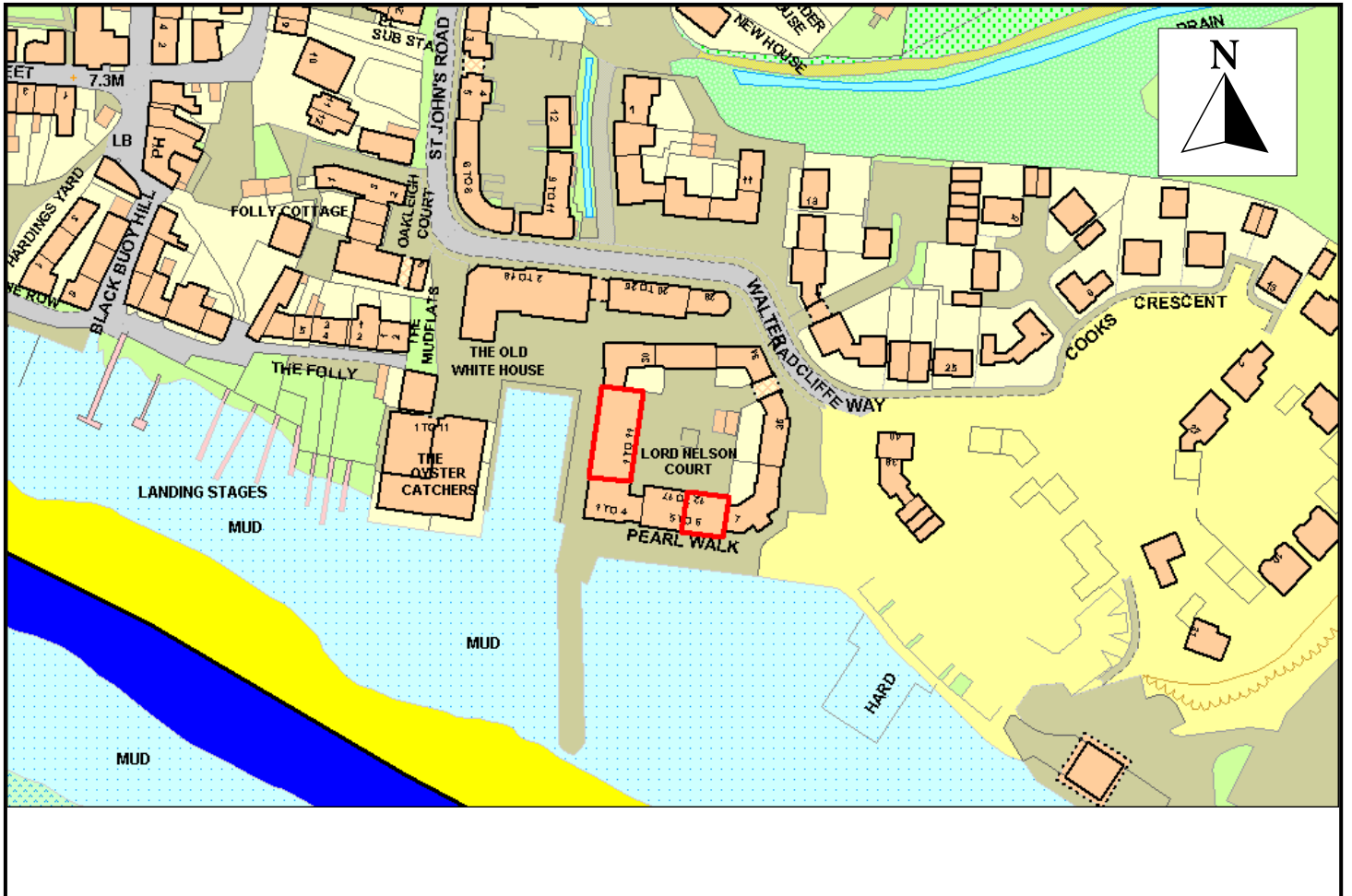
Reason: In the interest of local amenity.

### **Informatives**

(1) The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

(2) All works affecting the highway should be carried out by prior arrangement with, and to the requirements and satisfaction of, the Highway Authority and application for the necessary works should be made by initially telephoning 08456 037631.

(3) The attention of the developer is drawn to the proximity of the site to the National Grid's gas and electricity distribution network. The developer should contact the National Grid to confirm it is safe to proceed with the development before work commences.



**Application No:** 120846

**Location:** Pearl Walk, Wivenhoe, Colchester

**Scale (approx):** 1:1250

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## 7.2 Case Officer: Sue Jackson

## MINOR

**Site:** Pearl Walk, Wivenhoe, Colchester

**Application No:** 120846

**Date Received:** 17 May 2012

**Agent:** Mr Alan Cudmore

**Applicant:** Mr Tony Middlebrook

**Development:** Conversion of 4no. commercial units into residential use comprising 4no. 2 bedroomed ground floor apartments.

**Ward:** Wivenhoe Quay

**Summary of Recommendation:** Conditional Approval subject to signing of Section 106 Agreement and Unilateral Undertaking

### 1.0 Reason for Referral to the Planning Committee

1.1 This application is referred to the Planning Committee for the following reasons:-

- It has been called in by Councillor Ford as the proposal does not meet the adopted parking standard and due to concerns the proposal will result in the loss of commercial floor space.
- The parking provision does not meet adopted standards.
- The application includes a section 106 agreement.

### 2.0 Synopsis

2.1 The report will describe the application proposal and then discuss the material considerations. The recommendation is one of approval subject to a section 106 agreement, a unilateral undertaking and appropriate conditions.

### 3.0 Site Description and Content

3.1 The application site is the former Cooks Shipyard, Wivenhoe located on the eastern edge of the town with a frontage to the River Colne. The specific location is a building called parcel E on phase 2. This building is roughly square shaped with a central parking area. It has 2 storey and 3 storey elements, 4 storey including the roof area. The ground floor comprises 6 commercial units fronting the quay and wet dock and residential units on part of the ground floor and all the upper floors and roof. The building has been constructed; the residential units and 2 of the commercial units are occupied. This application relates to the four vacant commercial units which have never been occupied.

#### 4.0 Description of the Proposal

4.1 The application proposes the change of use of the 4 ground floor units to 4 2-bed apartments. It includes minor changes to the external appearance, these include new fenestration which respects the original appearance and the existing commercial units.

4.2 The application includes the following documents:

- transport statement report
- design and access statement
- flood risk assessment
- flood warning and evacuation plan
- addendum to the original contaminated land risk assessment
- marketing report

#### 5.0 Land Use Allocation

5.1 Predominately Residential on the LDF Proposals Maps.  
Regeneration Area  
Conservation Area  
Public footpaths cross the site.

#### 6.0 Relevant Planning History

6.1 O/COL/01/1799 - Outline planning permission approved on 5 November 2004 for erection of houses, flats, offices, fisherman's store and W.C. Refurbishment of wet dock, jetty, slipway and waterfront. Reconstruction of St John's Road and Walter Radcliffe Way.

6.2 RM/COL/05/1808 - Phase 2 - Reserved Matters approval - Removal of public footpaths, restoration of White House, fisherman's store, 6 commercial units, 12 houses and 42 flats, 7 polyfunctional spaces and associated parking for all the above.

6.3 110720 The application proposes removing condition 9 on the Cooks Shipyard site which restricts the use of the commercial buildings comprised in block B to B1a and B1b use and to allow their use for A1, A2, A3 and D1 it also proposes an extension of the opening times. **Members should note the application being considered by the Planning Committee on the 19<sup>th</sup> July 2012 relates to the same commercial units.** This application was refused for the following reasons:-

- 1 The access roads to this site are narrow and constricted through the older parts of the village, or through residential areas, and applications of this nature bring with them potential for additional vehicular movements. The proposal would see traffic enticed into the area for a greater period of time and, by reason of the longer working hours, increase the frequency of servicing by larger delivery vehicles. The proposal is therefore unacceptable and would conflict with the interests of the existing highway users and the amenity of the existing residents.

- 2 The proposed variation of the condition to permit A1 A3 and D1 uses and to extend the opening times would have an adverse impact on residential amenity due to additional noise and general activity from vehicles and pedestrians and odour pollution associated with the uses.
- 3 The parking standards adopted in September 2009 set out the parking standards and requirements for delivery /service vehicles for all the uses proposed. Whilst they are maximum standards it is considered the proposed uses in particular A3 restaurant and D1 non residential institution would generate vehicles to the site which could not be accommodated in the limited parking spaces available to these units. This would result in a further loss of amenity to residents.
- 4 The site is within the Wivenhoe settlement boundary and is allocated as Predominately Residential on the LDF Proposals Maps. The Core Strategy provides the Centres and Employment Hierarchy and details the type of uses which are to be expected in each part of this hierarchy. Areas allocated as Predominately Residential are not found within the hierarchy and therefore A class uses on this scale are normally not in accordance with policy. The range of uses applied for as part of this application have not been justified sufficiently and therefore it is not possible to judge the scale and impact of the proposed A and D Use Classes on Wivenhoe and the surrounding area.

## **7.0 Principal Policies**

- 7.1 The following national policies are relevant to this application:  
The National Planning Policy Framework (NPPF)
- 7.2 In addition to the above national policies, the following policies from the adopted Colchester Borough Core Strategy (December 2008) are relevant:

SD1 - Sustainable Development Locations  
SD2 - Delivering Facilities and Infrastructure  
H1 - Housing Delivery  
H2 - Housing Density  
H3 - Housing Diversity  
H4 - Affordable Housing  
UR1 - Regeneration Areas  
UR2 - Built Design and Character  
PR1 - Open Space  
PR2 - People-friendly Streets  
TA1 - Accessibility and Changing Travel Behaviour  
TA4 - Roads and Traffic  
TA5 - Parking

- 7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (October 2010):
- DP1 Design and Amenity
  - DP3 Planning Obligations and the Community Infrastructure Levy
  - DP11 Flat Conversions
  - DP12 Dwelling Standards
  - DP16 Private Amenity Space and Open Space Provision for New Residential Development
  - DP17 Accessibility and Access
  - DP19 Parking Standards
  - DP20 Flood Risk and Management of Surface Water Drainage

- 7.4 Regard should also be given to the following adopted Supplementary Planning Guidance/Documents:

- Community Facilities
- Vehicle Parking Standards
- Sustainable Construction
- Open Space, Sport and Recreation
- External Materials in New Developments
- Affordable Housing

## **8.0 Consultations**

- 8.1 The Highway Authority has raised no objection subject to a condition requiring the provision and implementation of a Travel Information and Marketing Scheme.

- 8.2 Senior Enterprise Officer:-

“Having had the opportunity to read the marketing history supplied by Fenn Wright it appears quite clearly that lack of parking spaces suitable for the intended end-use has been part of the reason why two-thirds of the spaces (4 of the 6) have not moved. Taking an employment density per office worker of the generous level of 14 square metres per person (150.64 square feet), the number of resulting office staff, netting off space for a kitchenette and toilet area, would be around 4 in Units A-C and around 5-6 in Unit F. Assuming the pipeline of business expansion taps local wellsprings, as it has for the two sold units – and as it seemed to do for the two near-deals – we might assume probabilistically a Wivenhoe resident owner walking to work and three (four for Unit F) commuting staff. Of these commuting staff it would appear reasonable to have allowed for 2 arriving by car, added to which, as functioning businesses we would need another one minimum visitor parking space. So, my concern is that a viable proposition for the relevant commercial uses would be 3 parking spaces per unit, not the one we have conditioned. A second concern is that the developer was allowed to market the units in “shell and core” condition rather than in a ready to occupy state, adding another perhaps £10,000 to £15,000 to the cost of purchase. However, given the lengthy and apparently well-run marketing campaign by Fenn Wright, it appears that we will have to concede that there are no current immediate occupiers for the remaining four units, although figures I have indicate that the ratio of B1 space to businesses in Wivenhoe indicates an immediate local undersupply of commercial space of this kind.

### 8.3 Urban Design Officer:

“Aesthetically the conversions appear to have respected the character of the building and reflect the rhythm of fenestration adequately.”

### 8.4 Contaminated Land Officer:

“The JJ Knight Roadworks Ltd re-assessment of the risks and the conclusion that the proposed change of use of Block E ground floor units, from commercial to residential, will not affect the existing remedial measures, already installed (e-mail of 19/6/12). This conclusion would appear reasonable.

Should permission be granted for this application, Environmental Protection suggest an informative is appended, to ensure that existing remedial measures remain effective for the proposed change of use.”

### 8.5 Environmental Control - Should planning permission be granted Environmental Control wish to make the following comments:- Demolition and Construction informative to be added

In addition to the details reported above, the full text of all consultation responses is available to view on the Council’s website.

## 9.0 Town Council Response

### 9.1 The Town Council has stated that:

“Recommendations: Overdevelopment of site. Inadequate parking. The Town Council supports the commercial aspect of the development and is disappointed that a relaxation in the original consent has resulted in this application. The Town Council would wish for the commercial units to be retained until the economy turns around. The original traffic survey was in support of the commercial units not residential. There is no provision for amenity space. Residential use will produce an overspill which could have an impact on the existing business units.

It should also be noted that in signing the lease for the Wet Dock, the Town Council is supporting the local fishing industry and residential.”

## 10.0 Representations

10.1 One letter of support and one letter of objection have been received.

10.2 The letter of support states this would be a great outcome for the 4 empty units.

10.3 The letter of objection is from the Wivenhoe Society and states:-

“The Wivenhoe Society wishes to object to the plans, as they stand, to convert four commercial units at Pearl Walk, Wivenhoe, into flats, on the grounds that the parking provision seems entirely inadequate. It would appear that only 4 parking spaces are provided in total for the four units. This may explain why it has been difficult to market them as commercial units. We are not clear as to the status of the piece attached to the planning committee meeting on May 23 of this year but this states

“**Advisory note on parking standards**

The residential parking standard for two bedroom flats and houses is two spaces per unit.

The residential parking standard for one bedroom units is one space per unit. One visitor space must be provided for every four units.

Residential parking standards can be relaxed in areas suitable for higher density development.”

Following these guidelines the four flats should have a total of 9 parking spaces provided.

There is already a problem with on street parking in Walter Radcliffe Way and any parking to the riverside of the block concerned would greatly detract from the amenities of the area. No case has been made for relaxing the parking standards outlined above. The nearest bus stop is some way away and the station even further.

The Society would not object in principle to the commercial units being turned into flats but would suggest that three of them be turned into flats and the fourth should be used for parking provision subject to suitable fire and sound proofing to protect the amenities of the occupiers of the flats above”.

The full text of all of the representations received is available to view on the Council’s website.

## **11.0 Parking Provision**

11.1 Parking provision is one of the material considerations in determining this application and the issues raised are set out in the report section together with the other material considerations.

## **12.0 Open Space Provisions**

12.1 The application includes a unilateral undertaking to secure the required contribution towards open space. The larger Cooks site includes an area of public open space a children’s play area, public quay and a water meadow.

## **13.0 Air Quality**

13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones

## **14.0 Report**

- 14.1 The Material Considerations are
- Loss of commercial units
  - Parking provision
  - Highway issues
  - Flood risk assessment
  - Affordable Housing
  - Design and Layout
  - Impacts on Neighbouring Properties
  - Amenity Provisions



### Loss of Commercial Units

- 14.2 The outline application submitted in 2001 envisaged a mixed use development; the subsequent approval of reserved matters included 6 commercial units on phase 2 and 941 square metres of B1 Business floorspace on phase 3. The 6 phase 2 units comprise the ground floor of a 3/4 storey building with residential on the upper floors and part of the ground floor. The commercial floor space on phase 3 comprises retail and B1 Business uses and is contained in a building with no residential floor space.
- 14.3 The application includes a marketing report. The report submitted by Fenn Wright states a comprehensive marketing campaign for the commercial units began in mid-2009. However from December 2007 they were marketed through informal channels. The report includes details of the marketing campaign which has been considered by the Councils Economic Development Officer and he is satisfied with its conclusions.
- 14.4 Members will note from the planning history an application was submitted last year for these 4 units to extend the range of permitted uses. This application generated significant objection from the occupants of other residential units in the building. The application was refused due to insufficient parking provision, additional traffic movements and adverse impact on resident's amenity.
- 14.5 Whilst the loss of commercial floor space is regretted it is considered the applicant has properly marketed the units without success and has sought to extend the range of uses which has been refused planning permission.

### Parking Provision.

- 14.6 The four commercial units each have a single parking space and the proposed four flats will each have a single space. It is not possible to increase the number of spaces.
- 14.7 The development gained planning permission before the new parking standards were approved. The block comprises 22 residential units and 6 commercial units and a total 33 parking spaces (this includes some garages). There are 6 spaces for the six commercial units providing 27 spaces for 22 residential properties. At the time the application was determined the Councils adopted parking standard was a maximum standard. The development is in a sustainable location within walking distance of Wivenhoe railway station and the facilities in the town and the parking provision was considered acceptable.
- 14.8 The new adopted parking standard is a minimum standard and requires 2 parking spaces per 2-bed dwelling plus 1 visitor space per 4 units a total of 9 spaces is required. There is therefore a shortfall of 5 spaces.
- 14.9 However the Parking Standards Document under the section titled Parking Standards in Urban Areas states "For main urban areas a reduction to the vehicle parking standard may be considered, particularly for residential development. Main urban areas are defined as those having frequent and extensive public transport and cycling and walking links, accessing education, healthcare, food shopping and employment".

14.10 In this case it is not possible to increase the parking provision. Alternative uses such as retail, restaurant and public uses have been refused permission on grounds including traffic generation and impact on residential amenity. Whilst the parking provision for the proposed flats is below the adopted standard alternative uses would generate even more traffic so a residential use is considered to be an acceptable use. For the units to remain empty is not considered to be an acceptable option.

#### Highway Issues

14.11 The Transport Assessment contains the following conclusions:

- The proposed change of use is negligible in terms of traffic generation when compared to the whole of the Cooks Shipyard development and further to this it is expected that this change would effectively reduce the overall traffic generated by the development.
- The previous transportation study undertaken within the transport Statement in 2009 to support the previous layout revision has successfully demonstrated that the local highway layout operates well and that the site is adequately served in terms of public transport and local amenities
- It can therefore be concluded that the proposed change of land use of four commercial units to four residential units will have no detrimental impact on the local highway network and that there is no highway or transportation reason for this application to be refused.

14.12 The Highway Authority has raised no objection.

#### Flood Risk Assessment (FRA)

14.13 The original application documentation included a FRA however as a residential use is classed as a “more vulnerable use” than commercial a revised FRA was required. The revised documents which include a flood warning and evacuation plan have been considered by the Environment Agency who has raised no objection to the application. They indicate the Flood warning and evacuation plan should be considered by CBC Emergency Planners.

#### Affordable Housing

14.14 The applicant has offered to provide an affordable housing unit off site at the Garrison. This will be secured by a section 106 agreement and has been agreed by the Council’s Affordable Housing Project Officer.

#### Design and Layout

14.15 The changes to the external appearance respect the character of the building and are considered acceptable.

#### Amenity Provisions

14.16 The four units will not have private amenity space however they front onto an area of public quay and are close to extensive areas of open space.

## Impacts on Surrounding Properties

14.17 It is considered the residential use itself will not impact on the amenity of surrounding properties. Any impact will be associated with the parking provision. However it is considered that because of the adopted parking standard at the time the units were approved any use of these units could generate a parking requirement above the 1 space per unit provided.

### **15.0 Conclusion**

15.1 It is considered the applicant has marketed these units appropriately and has been unsuccessful in finding an occupier. The application to extend the range of permitted uses was refused planning permission. Despite the limited parking residential use is considered an acceptable use and permission is recommended.

### **16.0 Recommendation**

- (1) APPROVE subject to outstanding consultees raising no objection to the prior completion of a legal agreement under Section 106 of the Town and Country Planning Act 1990. The Head of Environmental and Protective Services to be authorised to complete the agreement to secure plot 41 at the garrison L+N as an affordable housing unit.

and the signing of a unilateral undertaking to secure the appropriate community and open space, sport and recreation facilities contributions

- (2) On completion of the legal agreement and unilateral undertaking the Head of Environmental and Protective Services be authorised to grant planning permission subject to the following conditions:

### **Conditions**

#### **1 - A1.5 Full Perms (time limit for commencement of Development**

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In order to comply with Section 91 (1) and (2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

#### **2 - Non-Standard Condition**

The development shall accord with approved plans drawing numbers 12.004/304, 12.004/302, 12.004/300, 12.004/303, 12.004/301.

Reason: To ensure the development will be carried out as approved and because any changes must be agreed in advance in writing by the local planning authority.

### 3 - Non-Standard Condition

The parking spaces shall be provided for their respective residential unit as indicated on drawing number 12.004/304 prior to the occupation of any of the residential units. The parking spaces thereafter shall be retained for parking vehicles ancillary to the development.

Reason: To ensure parking is provided for the residential units.

### 4 - Non-Standard Condition

The bicycle parking facilities indicated on the approved plans returned herewith, shall be provided and made available to serve the units hereby approved before the units are occupied. These facilities shall thereafter be retained as such.

Reason: To ensure that adequate provision is made for cyclists.

### 5 - Non-Standard Condition

The new brickwork, render and fenestration shall match the existing in all respects.

Reason: To ensure an acceptable appearance.

### 6 - Non-Standard Condition

Flood Warning and an Evacuation Plan shall be implemented in accordance with the submitted document "Flood Warning and Evacuation Plan" dated April 2012 submitted by Richard Jackson.

Reason: To ensure satisfactory flood warning and evacuation measures are put in place.

## **Informatives**

#### (1) Land Contamination Informative:

The applicant is advised that the site to which this planning permission relates incorporates ground gas protection measures and protective, barrier potable water supply pipe-work. The developer should ensure that any permitted development works maintain the existing integrity of ground gas, vapour and potable water supply protection measures. If any changes are proposed which may adversely affect these protection measures, prior to the commencement of the permitted development, the applicant is advised to undertake a suitable and sufficient site investigation and any necessary risk assessment to ensure the land is free from significant levels of contamination. The Local Planning Authority should be given prior notification of any proposed remediation scheme. The applicant is advised that this must be conducted in accordance with current official guidance, including DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

(2) The developer is referred to the attached advisory note Advisory Notes for the Control of Pollution during Construction & Demolition Works for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.



## Planning Committee

Item  
**8**

19 July 2012

|                       |  |               |                                      |
|-----------------------|--|---------------|--------------------------------------|
| <b>Report of</b>      | <b>Head of Environmental and Protective Services</b> | <b>Author</b> | <b>Sue Jackson</b><br>☎ 01206 282450 |
| <b>Title</b>          | <b>Report for information</b>                        |               |                                      |
| <b>Wards affected</b> | <b>Mile End</b>                                      |               |                                      |

### 1.0 Decision Required

1.1 Members are required to note the report.

### 2.0 Reasons for Decision

2.1 The report is for information only.

### 3.0 Alternative Option

3.1 None.

### 4.0 Supporting Information

4.1 This report is submitted to the Planning Committee for information as Members have previously expressed concerns regarding the determination of retrospective applications. In this instance the case officer secured the demolition of two dwellings which were being constructed incorrectly and their subsequent construction as approved. This was achieved without it being necessary to report the matter to the Planning Committee.

4.2 Following a complaint from a neighbour that two dwellings on the New Braiswick Park development were being built incorrectly the matter was investigated by the case officer. It was found the complaint related to a semi detached pair of dwellings with a "T" plan. The building had been handed so a longer elevation with side windows faced the neighbour plus a garage on the boundary of their rear garden instead of a parking space. Despite several promises that work would stop it continued and the Council served a temporary stop notice.

4.3 Work then ceased and an application was submitted to regularise the unauthorised work. The application was refused planning permission under powers delegated to the Head of Environmental and Protective Services due to the adverse impact on the amenity of the adjacent neighbour.

4.4 Following the refusal of permission the unauthorised dwellings were demolished and they have now been erected in accordance with the approved drawings.

### 5.0 Consultations

5.1 None

## **6.0 Strategic Plan References**

6.1 Enforcement is an integral part of the planning system and robust enforcement is required to give Members and residents' confidence in the system

## **7.0 Financial Implications**

7.1 None

## **8.0 Standard References**

8.1 This report does not directly raise any implications in respect of publicity considerations or Equality, Diversity and Human Rights, Community Safety, Health and Safety or Risk Management Implications.



## **Colchester Borough Council Development Control**

### **Advisory Note on Parking Standards**

*The following information is intended as guidance for applicants/developers.*

A parking space should measure 2.9 metres by 5.5 metres. A smaller size of 2.5 metres by 5 metres is acceptable in special circumstances.

A garage should have an internal space of 7 metres by 3 metres. Smaller garages do not count towards the parking allocation.

The residential parking standard for two bedroom flats and houses is two spaces per unit. The residential parking standard for one bedroom units is one space per unit. One visitor space must be provided for every four units.

Residential parking standards can be relaxed in areas suitable for higher density development.



## Colchester Borough Council Environmental Control

### **Advisory Notes for the Control of Pollution during Construction & Demolition Works**

*The following information is intended as guidance for applicants/developers and construction firms. In order to minimise potential nuisance to nearby existing residents caused by construction and demolition works, Environmental Control recommends that the following guidelines are followed. Adherence to this advisory note will significantly reduce the likelihood of public complaint and potential enforcement action by Environmental Control.*

#### **Best Practice for Construction Sites**

Although the following notes are set out in the style of planning conditions, they are designed to represent the best practice techniques for the site. Therefore, failure to follow them may result in enforcement action under nuisance legislation (Environmental Protection Act 1990), or the imposition of controls on working hours (Control of Pollution Act 1974)

#### **Noise Control**

1. No vehicle connected with the works to arrive on site before 07:30 or leave after 19:00 (except in the case of emergency). Working hours to be restricted between 08:00 and 18:00 Monday to Saturday (finishing at 13:00 on Saturday) with no working of any kind permitted on Sundays or any Public/Bank Holiday days.
2. The selection and use of machinery to operate on site, and working practices to be adopted will, as a minimum requirement, be compliant with the standards laid out in British Standard 5228:1984.
3. Mobile plant to be resident on site during extended works shall be fitted with non-audible reversing alarms (subject to HSE agreement).
4. Prior to the commencement of any piling works which may be necessary, a full method statement shall be agreed in writing with the Planning Authority (in consultation with Environmental Control). This will contain a rationale for the piling method chosen and details of the techniques to be employed which minimise noise and vibration to nearby residents.

#### **Emission Control**

1. All waste arising from the ground clearance and construction processes to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.
2. No fires to be lit on site at any time.
3. On large scale construction sites, a wheel-wash facility shall be provided for the duration of the works to ensure levels of soil on roadways near the site are minimised.
4. All bulk carrying vehicles accessing the site shall be suitably sheeted to prevent nuisance from dust in transit.



## **Best Practice for Demolition Sites**

Prior to the commencement of any demolition works, the applicant (or their contractors) shall submit a full method statement to, and receive written approval from, the Planning & Protection Department. In addition to the guidance on working hours, plant specification, and emission controls given above, the following additional notes should be considered when drafting this document: -

### **Noise Control**

If there is a requirement to work outside of the recommended hours the applicant or contractor must submit a request in writing for approval by Planning & Protection prior to the commencement of works.

The use of barriers to mitigate the impact of noisy operations will be used where possible. This may include the retention of part(s) of the original buildings during the demolition process to act in this capacity.

### **Emission Control**

All waste arising from the demolition process to be recycled or removed from the site subject to agreement with the Local Planning Authority and other relevant agencies.